



State Senator Sheila Harsdorf

Date: February 22, 2012

To: Assembly Committee on Natural Resources

Fr: Senator Sheila Harsdorf

Re: Assembly Bill 585 – Allowing compliance waivers for water pollution discharges for certain research projects

Chair Mursau and Committee Members,

Thank you for holding a public hearing on Assembly Bill 585 (AB 585), which seeks to address concerns raised by the Department of Natural Resources (DNR) relating to an exemption from discharge permits for agricultural research. I regret that I am unable to personally testify on the bill today.

In the budget bill passed last summer, a provision was included that authorized the DNR to waive permit requirements under the Pollutant Discharge Elimination System (WPDES) program for certain agricultural research projects. The research projects covered under this exemption are intended to evaluate advanced nutrient management tools that also maintain environmental safeguards.

Under the language passed in the budget bill, the DNR can waive the requirement to obtain a permit for a research project if the Department determines that the project is unlikely to negatively impact or threaten the environment or public health, the Department reviews and approves the project prior to its start, and the researchers agree to maintain compliance with surface and groundwater laws under Chapters 281 and 283.

AB 585 seeks to address concerns raised by the DNR that allowing a waiver from the permit requirement would conflict with the federal Clean Water Act. This legislation clarifies that research projects would still be required to obtain a permit, but the Department will have the ability to waive compliance with those permits if the conditions set forth in the budget bill are met.

An example of a research project that would be impacted by this legislation includes a study by a farming operation near Evansville in conjunction with the University of Wisconsin Extension. This study seeks to research manure separation techniques and would use advances in technology to apply nutrients with greater precision. While grant funding was awarded to the UW-Extension in 2008 for this work, the farm seeking to perform this research has not yet received DNR approval to complete this study.

AB 585 seeks to encourage innovation in manure management in order to improve agricultural practices and provide environmental benefits. Allowing this research to occur in our state is important to improving technology and best practices that will benefit our ag industry, as well as our natural resources. The Senate companion to AB 585, Senate Bill 402, was passed by the State Senate on a voice vote on February 14th.

Thank you for your consideration of this legislation. If you have questions or concerns, I would welcome hearing from you.

Testimony of the Department of Natural Resources regarding AB 585

Assembly Committee on Natural Resources

February 22, 2012

Good afternoon members of the Committee. My name is Mary Anne Lowndes, and I am the Section Chief of the Runoff Management Section for the Department of Natural Resources.

Providing Ag producers the opportunity to evaluate advanced agricultural nutrient management tools and precision agricultural technology is a really good thing. The Legislature realized this and passed language in the last budget to help producers do just that. However the language passed in the last budget inadvertently gave the Department the ability to waive issuance of a permit altogether, which is not consistent with the Clean Water Act.

AB 585 gives the Department the discretion to waive part of a permit to allow the use of advanced nutrient management technology, while still ensuring that appropriate surface and ground water protections will occur and federal requirements are met.

I will gladly answer any questions you may have.

February 22, 2012

Representative Mursau, Chair
And Members of the Assembly Committee on Natural Resources

Chairman Mursau and Committee Members,

Thank you for the opportunity to comment on Assembly Bill 585 which clarifies a statutory provision for research projects in the areas of advanced agricultural nutrient management tools and precision agricultural technology. The Dairy Business Association (DBA) supports AB 585 to enhance farmers and researchers ability to develop new and innovative manure application tools.

Statutory language was adopted in the 2011-2013 budget to give authority to the Department of Natural Resources (DNR) to waive the requirement of a permit for research projects in the specific areas of advanced nutrient management tools and precision agricultural technology. After the enactment of this legislation, DNR raised a concern that the language may be inconsistent with the state's obligations pursuant to its delegated authority under the Clean Water Act. AB 585 addresses these concerns by narrowing DNR's waiver authority to certain provisions of the WPDES statute, rule or permit, instead of allowing the Department to waive the requirement for a WPDES permit. This waiver authority is consistent with the Department's existing authority in the air and waste management programs, and would provide much needed flexibility in the WPDES program for the development, evaluation and demonstration of innovative nutrient management technologies.

The research and development of new technologies for handling, utilizing and applying manure has great potential to protect natural resources, remove heavy trucks from our transportation infrastructure and minimize conflicts that from time to time arise between farmers and the non-farming community. Farmers are constantly looking for innovative methods of treating and applying manure. A research and development waiver will streamline the process for implementing and deploying new and emerging technologies while holding the permit holder to the same environmental standards. The clarification provided in AB 585 will allow DNR to begin evaluating research projects with confidence that they can be approved and implemented in accordance with their obligations under the Clean Water Act.

Thank you for your consideration of my comments.

Sincerely,

Jayne Sellen
Government Affairs Director